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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
Twenty-eighth session
29 April-17 May 2002

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic, Social and Cultural Rights

IRELAND

1. The Committee on Economic, Social and Cultural Rights considered the second periodic report of Ireland on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.29) at its 6th and 7th meetings, held on 1 and 2 May 2002 (E/C.12/2002/SR.6 and 7), and adopted, at its 17th meeting held on 10 May 2002, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the second periodic report of the State party, which was prepared in general conformity with the Committee's guidelines. The Committee expresses its particular appreciation for the inclusion by the State party of a separate chapter on follow-up to the Committee's concluding observations, adopted in 1999, on the State party's initial report.

3. The Committee welcomes the constructive dialogue with the delegation, which included a large number of government officials with expertise on subjects relevant to the provisions of the Covenant

B. Positive aspects

4. The Committee notes with appreciation the ratification in November 2000 of the 1996 revised European Social Charter and the 1995 Additional Protocol to the European Social Charter, as well as the ratification in December 2000 of the International Convention on the Elimination of All Forms of Racial Discrimination.

5. The Committee notes with appreciation the establishment of the Equality Authority in October 1999, under the Employment Equality Act (1998), and the entry into force of the Equal Status Act in October 2000.

6. The Committee commends the State party for establishing the Human Rights Commission under the Human Rights Commission Act (2000).

7. The Committee also commends the State party for the legislative measures taken to combat domestic violence and to eradicate corporal punishment in schools.

8. The Committee notes with appreciation the continuing decline in the unemployment rate since the consideration of the State party's initial report, i.e. down from 6 per cent in 1999 to 4.3 per cent in 2001, and in particular the considerable decline in the long-term unemployment rate from over 9 per cent in 1996 to 1.2 per cent in 2001.

9. The Committee welcomes the introduction of a minimum wage in April 2000.

10. The Committee also welcomes the State party's revised National Anti-Poverty Strategy (NAPS) as set out in "Building an inclusive society" (February 2002).

C. Factors and difficulties impeding the implementation of the Covenant

11. The Committee notes the favourable economic conditions prevailing in the State party and observes no insurmountable factors or difficulties preventing the State party from effectively implementing the Covenant.

D. Principal subjects of concern

12. The Committee notes with regret that, despite its previous recommendation in 1999, no steps have been taken to incorporate or reflect the Covenant in domestic legislation, and that the State party could not provide information on case law in which the Covenant and its rights were invoked before the courts.

13. The Committee is concerned that the Human Rights Commission established by the Human Rights Commission Act (2000) is not yet operational.

14. The Committee regrets that the Disability Bill does not adopt a human rights-based approach, as recommended in its previous concluding observations. Moreover, the Committee regrets that section 47 of the Disability Bill contains a clause purporting to remove the rights of people with disabilities to seek judicial redress if any of the Bill's provisions are not carried out.

15. The Committee is concerned about the persistence of discrimination against persons with physical and mental disabilities, especially in the fields of employment, social security benefits, education and health. The Committee is particularly concerned that people with disabilities, including those working in sheltered workshops, do not have the status of employees and therefore do not qualify for the minimum wage arrangements; if, however, they do benefit from minimum wage arrangements, they are liable to lose their rights to free medical care.

16. The Committee regrets that the State party has not yet undertaken any measures with regard to the Committee's 1999 recommendation concerning the inconsistency of article 40.1 of the Constitution on equality before the law with the principle of non-discrimination as set out in articles 2 and 3 of the Covenant.

17. The Committee is concerned about the inadequacy of the minimum wage and welfare payment levels set by the State party in relation to its obligations under articles 7, 9 and 11 of the Covenant.

18. The Committee is concerned about the continued impediments imposed by the State party with respect to trade unions obtaining collective bargaining licences and the possible risk of dismissal for members of non-authorized trade unions in the event of strike action, despite the Committee's observation in 1999 (para. 19).

19. The Committee is concerned that the State party, despite the Committee's recommendation in 1999 (para. 12), has still not adopted a human rights-based approach to NAPS.

20. The Committee is concerned that: (a) many new households cannot secure adequate and affordable housing; and (b) some 1,200 families of the traveller community are living in roadside encampments without access to water and adequate sanitary facilities, and are liable to be forcibly evicted.

21. The Committee is concerned that a large number of persons with mental disabilities whose state of health would allow them to live in the community are still accommodated in psychiatric hospitals together with persons suffering from psychiatric illnesses or problems, despite efforts by the State party to transfer them to more appropriate care settings.

22. The Committee notes with regret that a human rights framework encompassing, inter alia, the principles of non-discrimination and equal access to health facilities and services, as outlined in paragraph 54 of the Committee's General Comment No. 14 on the right to health, was not embodied in the recently published National Health Strategy. The Committee also regrets the State party's failure to introduce a common waiting list for treatment in publicly funded hospital services for publicly and privately insured patients.

E. Suggestions and recommendations

23. Affirming that all economic, social and cultural rights are justiciable, the Committee reiterates its previous recommendation (see paragraph 22 of the Committee's 1999 concluding observations) and strongly recommends that the State party incorporate economic, social and cultural rights in the proposed amendment to the Constitution, as well as in other domestic legislation. The Committee points out that, irrespective of the system through which international law is incorporated in the domestic legal order (monism or dualism), following ratification of an international instrument, the State party is under an obligation to comply with it and to give it full effect in the domestic legal order. In this respect, the Committee would like to draw the attention of the State party to its General Comment No. 9 on the domestic application of the Covenant.

24. The Committee requests the State party to describe in its next periodic report the initiatives undertaken by the Human Rights Commission to promote economic, social and cultural rights.

25. The Committee strongly recommends that the State party adopt a human rights-based approach in the Disability Bill. In particular, the Committee recommends that the clause in section 47 of the Disability Bill, which purports to deny people with disabilities the right to judicial redress, be removed.

26. The Committee recommends that the State party conduct and complete as soon as possible a thorough review of the sheltered workshops for the disabled and consider adopting measures, legislative or otherwise, allowing people with disabilities to work with full employment status and to retain the right to free medical care.

27. The Committee also recommends that the All-Party *Oireachtas* Committee urgently consider amending article 40.1 of the Constitution on equality before the law, in the light of the principle of non-discrimination as set out in articles 2.2 and 3 of the Covenant.

28. The Committee urges the State party to reconsider its methods of fixing the minimum wage and welfare payment levels so as to ensure they conform to the State party's obligations under articles 7, 9 and 11 of the Covenant.

29. The Committee recommends that the State party adequately protect in law and practice trade unions' rights to conduct collective bargaining.

30. Noting that a review of the Domestic Violence Act (1996) was undertaken in 1999, the Committee requests the State party to explain, in its next periodic report, the measures it has introduced in response to the review's recommendations including, but not confined to, the recommendation to develop a "domestic violence pilot intervention project".

31. The Committee urges the State party: (i) to ensure that the Combat Poverty Agency is well-resourced and able to fulfil, in an effective manner, its statutory advisory functions; (ii) to give proper attention to the research and recommendations of the Combat Poverty Agency; and (iii) to integrate human rights into NAPS, in accordance with the Committee's statement on poverty (E/C.12/2001/10, 10 May 2001). In this regard, the Committee reaffirms the State party's obligation to make the Covenant rights enforceable in domestic legislation and confirms that, whether or not the State party takes this step, it still has a legal obligation to integrate economic, social and cultural rights into NAPS.

32. The Committee also urges the State party to accelerate its social housing programmes in order to reduce the waiting time for social housing. Moreover, the State party should enhance its efforts: (a) to provide, as early as possible, alternative accommodation for the 1,200 traveller families who are living in roadside encampments without adequate facilities and to respect General Comments Nos. 4 and 7 of this Committee; and (b) to meet its target of providing all necessary traveller accommodation by 2004.

33. The Committee requests the State party to provide in its next periodic report up-to-date and accurate information, including statistical data, on measures taken to provide adequate accommodation to traveller families.

34. The Committee reiterates the recommendation it made in 1999 that the State party speed up the process of transferring persons with mental disabilities who are not suffering from serious psychiatric illness and who are still living in psychiatric hospitals, to more appropriate care settings.

35. The Committee recommends that the State party review the recently published National Health Strategy with a view to embracing a human rights framework in that strategy, in line with the principles of non-discrimination and equal access to health facilities and services, as outlined in paragraph 54 of General Comment No. 14. The Committee furthermore urges the State party to introduce a common waiting list for treatment in publicly funded hospitals for privately and publicly insured patients.

36. The Committee urges the State party to enact legislation that extends the constitutional right to free primary education to all adults with special educational needs.

37. The Committee encourages the State party, as a member of international organizations, including international financial institutions such as the International Monetary Fund and the World Bank, to do all it can to ensure that the policies and decisions of those organizations are in conformity with the obligations of States parties under the Covenant, in particular the obligations contained in articles 2.1, 11, 15, 22 and 23 concerning international assistance and cooperation.

38. The Committee urges the State party to ensure that its contribution to international development cooperation reaches 0.45 per cent of GNP by the end of 2002 (see paragraph 4 of the Committee's concluding observations on the State party's initial report) and that this annual figure increases, as quickly as possible, to the United Nations target of 0.7 per cent of GNP.

39. The Committee requests the State party to disseminate the present concluding observations widely at all levels of society, and in particular among State officials and the judiciary, and, in its next periodic report, to inform the Committee on all steps taken to implement them. It also encourages the State party to continue to involve non-governmental organizations and other members of civil society in the preparation of its third periodic report.

40. Finally, the Committee requests the State party to submit its third periodic report by 30 June 2007 and to include in that report detailed information on the steps it has undertaken to implement the Committee's recommendations contained in the present concluding observations.